

Report on the

# **BOARD OF HEATING AND AIR CONDITIONING CONTRACTORS**

Montgomery, Alabama



**Department of  
Examiners of Public Accounts**

**50 North Ripley Street, Room 3201  
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**EXAMINERS OF PUBLIC ACCOUNTS**

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June 20, 2007

*Location:*  
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Senator Larry Dixon  
Chairman, Sunset Committee  
Alabama State House  
Montgomery, AL 36130

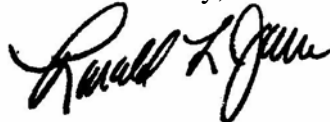
Dear Senator Dixon:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the Board of Heating and Air Conditioning Contractors in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the Board of Heating and Air Conditioning Contractors, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,



Ronald L. Jones  
Chief Examiner

Examiner  
Maria Catledge



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## **PROFILE**

### **Purpose and Authority**

The Board of Heating and Air Conditioning Contractors was created by Act 547, *Acts of Alabama 1982*. The board licenses contractors and regulates the professional practice of heating and air conditioning contracting in Alabama. The board operates under authority of the *Code of Alabama 1975*, Sections 34-31-18 through 34-31-35.

<b><u>Board Characteristics</u></b>	
<b>Members</b>	12  <i>Code of Alabama 1975, 34-31-20 (a)</i>
<b>Term</b>	No more than two consecutive 4-year terms. May continue to serve until successors are appointed and qualified.  <i>Code of Alabama 1975, Section 34-31-20 (a)</i>
<b>Selection</b>	4 appointed by the Governor 3 appointed by the Lieutenant Governor 4 appointed by the Speaker of the House of Representatives 1 appointed by the President Pro Tempore of the Senate  All members must be confirmed by the Senate.  <i>Code of Alabama 1975, Section 34-31-20 (a)</i>
<b>Qualifications</b>	6 heating and air conditioning contractors 1 mechanical engineer 1 trade representative or an equipment manufacturer or supplier 1 trade representative of service or repair parts industry 1 county or local inspection services department representative 2 from the general public  <i>Code of Alabama 1975, Section 34-31-20 (a)</i>
<b>Racial Representation</b>	No statutory requirement One (1) minority member

<b>Geographical Representation</b>	No statutory requirement															
<b>Consumer Representation</b>	Two members must be consumers.  <i>Code of Alabama 1975, Section 34-31-20 (a)</i>															
<b>Other Representation</b>	The membership of the board shall be inclusive and reflect the racial, gender, geographical, urban/rural, and economical diversity of the state.															
<b>Compensation</b>	\$100.00 per day for attending sessions of the board or its committees. Reimbursed for travel expenses in the same manner as state employees.  <i>Code of Alabama 1975, Section 34-31-22.</i>															
<b><u>Operations</u></b>																
<b>Chief Executive Officer</b>	Kathy LeCroix, Executive Director Appointed by the board. Annual Salary \$95,938.80 Salary set by the board.															
<b>Location</b>	100 North Union Street, Suite 630 Montgomery, AL 36130															
<b>Examinations</b>	<p>PSI Testing Center administers examinations in the following locations: Birmingham – Thursday &amp; Saturday Huntsville – Tuesday &amp; Saturday Mobile, Montgomery – Wednesday &amp; Saturday</p> <p>May also take the examination in Jackson, MS; New Orleans, Baton Rouge, and Shreveport, LA.</p> <p>Following are the results of examinations administered during the periods indicated:</p> <table><tr><td></td><td><i>03/04</i></td><td><i>04/05</i></td><td><i>05/06</i></td><td><i>06/07</i></td></tr><tr><td><i># Passed</i></td><td>234</td><td>277</td><td>201</td><td>117</td></tr><tr><td><i># Failed</i></td><td>187</td><td>190</td><td>252</td><td>152</td></tr></table>		<i>03/04</i>	<i>04/05</i>	<i>05/06</i>	<i>06/07</i>	<i># Passed</i>	234	277	201	117	<i># Failed</i>	187	190	252	152
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<i># Failed</i>	187	190	252	152												



<b>Renewals</b>	<p>Annually prior to December 31.</p> <p><b><i>Code of Alabama 1975, Section 34-31-26 (a)</i></b></p>						
<b>Licensees</b>	<p>Certified Contractor Certificates issued as of March 31, 2007:</p> <table> <tr> <td>Active</td><td>3,516</td></tr> <tr> <td>Inactive</td><td><u>636</u></td></tr> <tr> <td><b>Total</b></td><td><b>4,171</b></td></tr> </table>	Active	3,516	Inactive	<u>636</u>	<b>Total</b>	<b>4,171</b>
Active	3,516						
Inactive	<u>636</u>						
<b>Total</b>	<b>4,171</b>						
<b>Reciprocity</b>	<p>The <b><i>Code of Alabama 1975</i></b>, Section 34-31-29 (d) authorizes the board to enter into reciprocal agreements with other states under the following condition:</p> <p>The reciprocal state must permit Alabama certified contractors to engage in work in the reciprocal state in exchange for the reciprocal state's contractors being permitted to work in Alabama.</p> <p>The board has reciprocal agreements with Arkansas, Louisiana, Mississippi and Tennessee. The agreements recognize only that the reciprocal applicant has been adequately examined. Other requirements for Alabama licensure must be met.</p>						
<b>Continuing Education</b>	<p>8 hours every two years.</p> <p><b><i>Code of Alabama 1975, Section 34-31-26 (d)</i></b></p>						
<b>Employees</b>	<p>1 Merit System unclassified 7 Merit System classified</p>						
<b>Legal Counsel</b>	<p>Ellen Leonard, Assistant Attorney General Attorney General's Office</p>						
<b><i>Subpoena Power</i></b>	<p>Not in the licensing statute.</p>						

<b>Internet Presence</b>	<a href="http://www.hvac.alabama.gov">www.hvac.alabama.gov</a> The following information is available at the board's website: <ul style="list-style-type: none"> <li>◆ Statutory authority</li> <li>◆ Administrative rules</li> <li>◆ Board meeting dates</li> <li>◆ Listings of current board members and staff</li> <li>◆ Schedule of examinations for current year</li> <li>◆ Consumer complaint information</li> <li>◆ Listing of contractors</li> <li>◆ Link to providers for continuing education programs</li> </ul> On-line license renewal is available.
<b>Board Member Training</b>	Executive director and executive secretary. None of the board members have attended.
<b><u>Financial Information</u></b>	
<b>Source of Funds</b>	Licensing fees
<b>State Treasury</b>	Yes
<b>Unused Funds</b>	The board retains unexpended funds up to 25% of its budget for the previous year. Any excess is transferred into the state's General Fund.  <i>Code of Alabama 1975, Section 34-31-20 (b)</i>

## **SIGNIFICANT ITEMS**

1. **According to seven of the nine board members responding to a questionnaire, the board is understaffed and needs additional compliance field officers.** Board members and licensees responding to the questionnaires stated that uncertified contractors installing and repairing heating and air systems is a major concern. According to the executive director, the board has tried to hire additional compliance officers, but the beginning salary for inspectors set by the State Personnel Department (\$1,255.80/semi-monthly or \$30,139.20/annually) is not competitive with private industry.

The board currently employs one compliance officer and a compliance supervisor. Compliance officers are responsible for inspecting licenses, certifications, and permits for compliance with regulations regarding the installation and maintenance of heating and air conditioning equipment. They also investigate complaints regarding unlicensed contractors and complaints regarding improperly installed heating and air conditioning equipment.

**2. There is no education or experience prerequisite for certification by the board.**

According to the *Code of Alabama 1975*, Section 34-31-28 (a), contractors must pass a written examination to obtain a certificate. Applicants must achieve a minimum score of 54 (67.5%) of correct responses to 80 questions in order to pass the open-book examination. There are no prerequisites (education or experience) to qualify for examination. The board indicated that the requirements for obtaining a certificate should be more stringent and that applicants should be required to have a fundamental knowledge of heating and air conditioning, obtained from attending an educational institution or from prior practical experience in installing, servicing or repairing a heating and air conditioning system.

Legislation (HB442 and companion SB790) was submitted during the 2007 legislation session to address this and other issues (See appendices). The bills did not become law.

**3. The board submitted legislation in the 2007 Legislative Session (HB442 and companion SB790) to amend the heating and air conditioning contractor licensing law as follows (See appendices):**

- To expand the board's licensing and regulatory authority to include regulation of refrigeration contractors;
- To authorize the board to set prerequisite education/experience/fitness requirements for licensure.
- To require contractors to display their certification numbers on documentation, forms of advertising, and on all service and installation vehicles;
- To prohibit another person's use of a person's license;
- To provide for an apprentice registration and accompanying fees;
- To increase the continuing education requirement from 8 hours every two years to 8 hours every year;
- To formalize the process of approving continuing education courses;
- To provide additional exemptions;
- To require performance bonds of active licensees;
- To increase the maximum administrative fine from \$500 to \$2000.

4. **The board is charging a bad check charge (\$35.00), which is in excess of the maximum amount authorized by statute (\$30.00). The board did not adopt an administrative rule setting the amount of the charge.**

In a recently completed compliance examination, we found that the board was charging a bad check charge in excess of the amount provided by law. The *Code of Alabama 1975*, Section 8-8-15(a) provides for a bad check charge of not more than the greater of either twenty-five dollars (\$25) or an amount equal to the actual charge by the depository institution for the return of unpaid or dishonored instruments. Section 8-8-15(b) amended the maximum as follows, “Commencing January 1, 1999, the bad check charge in subsection (a) shall increase by one dollar (\$1) per year through January 1, 2003, at which time the maximum bad check charge shall be thirty dollars (\$30) [Emphasis added].”

In addition, the board has not adopted an administrative rule setting the amount of its bad check charge. The setting of a bad check charge meets the definition of an administrative rule found in the Administrative Procedure Act. The Administrative Procedure Act in the *Code of Alabama 1975*, Section 41-22-3(9) defines a rule as, “Each agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of any agency...”

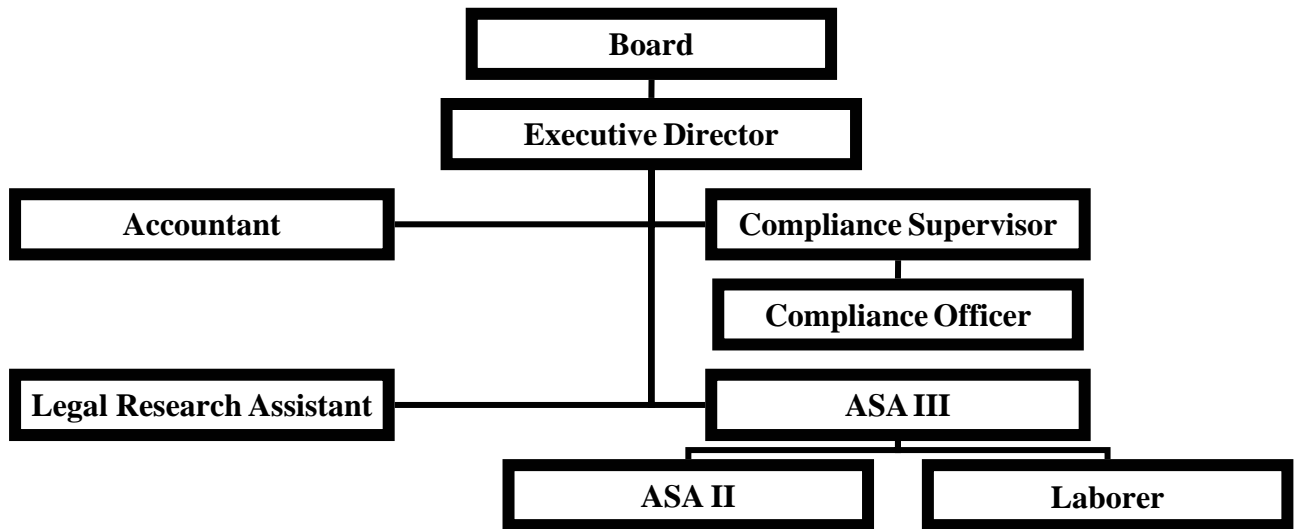
Further, the Administrative Procedure Act provides in the *Code of Alabama 1975*, Section 41-22-4(b) that, “No agency rule, order, or decision shall be valid or effective against any person or party nor may it be invoked by the agency for any purpose until it has been made available for public inspection and indexed as required by this section and the agency has given all notices required by Section 41-22-5.”

We recommended that the board should cease charging a bad check charge until it has processed an administrative rule in accordance with the requirements of Alabama’s Administrative Procedure Act. In addition, the bad check charge should be limited to the maximum of \$30, as provided by law.

## **STATUS OF PRIOR FINDINGS**

All prior findings have been resolved.

## **ORGANIZATION**



## **PERSONNEL**

The Board of Heating and Air Conditioning Contractors currently employs eight employees consisting of one unclassified merit system employee (executive director) and seven classified merit system employees.

Ellen Leonard, Attorney General's Office, provides legal services for the board.

<b><i>Schedule of Employees As of March 31, 2007</i></b>				
<b>Classification</b>	<b>Number of Employees</b>	<b>Merit System Classification</b>	<b>Race</b>	<b>Gender</b>
Executive Director	1	Unclassified	White	Female
Legal Research Assistant	1	Classified	White	Female
Accountant	1	Classified	White	Female
Administrative Support Asst. III	1	Classified	White	Female
Compliance Officers	2	Classified	White	Male
Administrative Support Asst. II	1	Classified	White	Male
Laborer	1		White	Male
<b>Total</b>	<b>8</b>			

## **PERFORMANCE CHARACTERISTICS**

**Number of Licensees per Employee (March 31, 2007)** – 521.37

**Operating Disbursements per Licensee (2005-06 fiscal year)** – 174.97

**Number of Persons per Licensee in Alabama and Surrounding States:**

	<b>Population*</b>	<b>Number of Licensees</b>	<b>Persons Per Licensee</b>
<b>Alabama</b>	<b>4,599,030</b>	<b>4,171</b>	<b>1,103</b>
Florida	18,089,888	5,407	3,346
Georgia	9,363,941	6,453	1,451
Mississippi	2,910,540	278	10,470
Tennessee	6,038,803	762	7,925

\*U. S. Census Bureau, July 2006 Estimate

### **Notification to Licensees of Board Decisions to Amend Administrative Rules**

The board complied with procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly and public hearings on proposed rules. Licensees are notified of proposed rule changes.

### **Complaints**

The board has formalized its complaint process in its Administrative Rule 440-X-6-.02, which describes the procedures for documentation, receipt, and investigation of complaints relating to board licensees and uncertified contractors.

### **Complaint Process**

Initial Documentation	Complaints may be faxed, mailed, or phoned in to the board's office. A complaint form is available for download from the board's website or it may be faxed or mailed to the complainant. The board may request the personal appearance of the complainant and may require the submission of a written complaint to the board containing the facts of the complaint. The board may also require the complainant to submit a written and sworn statement containing the facts involved in the complaint.
Anonymous Complaints	Accepted for unlicensed contractors only.

Receipt of Completed Complaint	The board acknowledges receipt of the complaint to the complainant and notifies the contractor of the complaint. The board allows the contractor and the complainant 20 days to resolve their differences before sending out a compliance officer to investigate. The compliance officer inspects the installation for compliance with applicable code requirements and informs the contractor of any deficiencies noted.
Investigative Committee	The compliance officer reports his findings to an investigative committee consisting of at least one board member, the executive director, and the board's attorney. The committee reviews the complaint to determine whether probable cause exists for disciplinary or enforcement proceedings. The board refers all investigations involving possible criminal violations of state law to the Attorney General's Officer and any other state or local law enforcement agency.
Formal Hearing	Upon determination of probable cause by the Investigative Committee that disciplinary proceedings are necessary, the contractor is served a summons to appear for an administrative hearing. An administrative hearing, normally held using an administrative hearing officer provided by the Attorney General's Office, is held within four months of the date of the summons. If no probable cause exists, the investigation is closed. The board may also enter into informal settlement agreements.
Investigative Board Member	Board members participating in the investigative portion of the complaint recuse themselves from participating in the formal hearing.

Resolution of Complaint	The board may issue a written public or private reprimand or remove, revoke, or suspend the certification of any certified contractor who violates state law or the rules and regulations of the board. The board may also levy an administrative fine for serious violations. After the complaint is resolved, the complainant is notified of the complaint.
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### **Schedule of Complaints**

<b>Fiscal Year</b>	<b>Complaints Filed</b>	<b>Complaints Resolved</b>	<b>Complaints Pending</b>
2002-03	96	91	5
2003-04	85	79	6
2004-05	122	112	10
2005-06	140	120	20

A review of complaint files revealed that complaints are usually resolved within a few weeks, but may take several months, depending on the nature of the complaint. Complaints that were unresolved or pending primarily involved litigation or a licensee who has not yet fulfilled all requirements of a settlement agreement. The majority of complaints are against unlicensed contractors.

## **SMART BUDGETING**

*Acts of Alabama*, 2004-50 (HJR89) states, “That all state agencies and entities receiving legislative appropriations are requested to submit to the Joint Legislative Budget Committee budget proposals in performance based budget language and form. This request is applicable for proposals for the 2005-06 fiscal year to be submitted to the 2005 Regular Session and for each succeeding fiscal year. The Director of Finance is requested to inform each public agency or entity of our desires concerning this matter.”

To comply with this request, the Director of Finance implemented a system of budgeting that requires each agency to report its performance, the system to be named SMART, an acronym for Specific, Measurable, Accountable, Responsive, Transparent.

As part of the SMART Budgeting system, each agency is required to submit its goals and objectives to the Department of Finance – the goals to be stated as long-term, multi-year targets which are to be achieved through accomplishments of stated objectives, which are single-year targets. In order to report progress, the goals and objectives must necessarily be designed so the agency can measure annual progress toward their achievement. The SMART Budgeting system includes an Operations Plan and a Quarterly Performance



Report. The performance report presents information on achievement of an agency's annual objectives, and is the SMART Budgeting report that presents performance information. If an agency has not included at least one objective for each goal, performance relative to that goal will not be reported. For the 2006 fiscal year, each licensing/regulatory agency was required to have at least one goal and one or more objectives directly related to the goal. Additional annual objectives were allowed without corresponding goals.

Among agencies that were not accustomed to reporting performance, we found confusion as to how to design the goals and objectives and how to differentiate between goals and objectives. Routinely we found goals with no directly related objectives. Both goals and objectives were often too abstract to be measurable, and progress toward their achievement could not be meaningfully reported. The Department of Finance is aware of these deficiencies and is taking remedial steps.

In these respects, the Board of Heating and Air Conditioning Contractors was no exception. Some goals were not accompanied by directly related objectives. Some goals and objectives were too abstract to be measured, and progress toward their achievement could not be measured and reported.

The board submitted a 2006 Operations Plan, and data for each of the four quarters was supplied for the Quarterly Performance report, as required. The board also submitted a 2007 Operations Plan. The board's SMART Operations Plans for the 2006 and 2007 fiscal years and the Quarterly Performance Report for the 2007 fiscal year can be found in the appendices of this report. Goals and projected performance for the year are presented on the Operations Plan. Projected and actual performance toward achievement of objectives for the year is presented on the Performance Report.

The board's performance goals and objectives for the 2006 and 2007 fiscal years, the reported performance from the Quarterly Performance Report, and the examiner's comments are presented in the following table. The board's goals and objectives for the 2007 fiscal year were the same as for the 2006 fiscal year.

#### 2006/2007

2006/2007 GOALS	COMMENTS
<p>To <b>review the qualifications</b> of individuals for HVAC certification and <b>issue license timely</b>.</p>	<p>This goal contains two goals, <b>review qualifications</b> and <b>issue licenses timely</b>. No Performance target is stated for either goal. Consequently, it cannot be known when the goal is achieved. In addition, reviewing the qualifications of individuals is a statement of work to be done, not a performance goal. Neither goal was accompanied by a directly related objective. Therefore, progress toward achievement of the goals was not reported in 2006 and will not be reported in 2007.</p>

To administer technical exams for certification.	This is a statement of normal work to be done, not a performance goal. There is no target level of performance. The goal is not accompanied by a directly related objective. Therefore, progress toward achievement of the goals was not reported in 2006 and will not be reported in 2007.
To receive and investigate complaints from homeowners or property owners to determine whether any statutory standard violations have occurred.	This a statement of normal work to be done rather than a performance goal. There is no stated target level of performance from which to determine when the goal is achieved. There is an appropriate accompanying objective, and progress toward achieving the goal was reported in 2006 and should be reported for 2007.
To conduct public awareness meetings and updates for continuing education requirements for certification.	This is a statement of work to be done, not a performance goal. No target level of performance is stated from which to determine when the goal is achieved. There is no directly related goal. Therefore performance relative to the goal was not reported in 2006 and will not be reported in 2007.

2006/2007 OBJECTIVES	REPORTED	COMMENTS
Increase total spending by no more than 2%.	-0.048	This objective does not address performance for any specific activity of the board. Data showing progress toward this goal was measurable and was reported. The data was reported relative to a spending objective rather than a performance objective. Although the objective was stated as a per cent, the data reported was a decimal fraction. The data was verified by reviewing the agency's financial records.

Increase the unit cost of certification process and file maintenance by no more than 2% (dollars spent per contractor)	117.68	The objective was to limit the increase in cost by no more than 2%. The data presented appears to be dollars per contractor rather than a percentage. Because a target dollar amount was not stated in the objective, it cannot be determined whether the objective was achieved. The data was verified by reviewing the agency's financial records.
Complete 75% of consumer complaint investigations within 90 days of receipt	140	The objective was to complete a target percentage of investigations within 90 days. The reported data appears to be a number of investigations rather than a percentage of investigations completed within 90 days. The data reported does not present the percentage completed within 90 days.
Increase number of unlicensed contractors' activity investigated by 5%.	19	Progress toward achievement of this objective was measurable and was reported. The data was verified by reviewing the agency's unlicensed contractor complaint files. However, the data was reported as a number rather than as a percentage and a target number of contractors to be investigated was not provided. From the data reported, it cannot be known whether the objective percentage was achieved.

## **REGULATION IN CONJUNCTION WITH OTHER ENTITIES**

State law requires that any Heating and Air Conditioning contractor performing a job over \$50,000 must have a subcontractor's license issued by the Licensing Board for General Contractors. Other state boards that may also require the licensing or may regulate the activities of Heating and Air Conditioning Contractors in the performance of their work under their professional licensing statutes are:

Homebuilders Licensure Board (new construction home heating and air conditioning systems)

Liquefied Petroleum Gas Board (LP gas heating systems)

Boiler and Pressure Vessels (steam heat systems)

**U.S. Environmental Protection Agency (EPA)** – The EPA, under authority of the Clean Air Act regulates the use of ozone-depleting refrigerants associated with air conditioning. The Clean Air Act does not allow any refrigerant to be vented into the atmosphere during installation, service, or retirement of equipment.

## **FINANCIAL INFORMATION**

The board operates from Special Revenue Fund 411 in the State Treasury. Operating funds are derived from licensing fees collected by the board. Unexpended balances of up to 25% of the board's budget from the previous fiscal year may be retained in the board's fund at year-end. The *Code of Alabama 1975*, Section 34-31-20 (b), requires that any funds in excess of this amount at year-end must be paid into the state's General Fund.

### **Schedule of Fees**

The board has set the following fees by Administrative Rule 440-X-3-.10.

<b><i>Fee</i></b>	<b><i>Code of Alabama 1975</i></b>	<b><i>Amount</i></b>
<b>Annual Renewal – Active Certification</b>	34-31-25 (c)	\$ 150.00
(a) Late Fee after December 31	34-31-32 (b)	100.00
(b) Penalty Fee after February 28	34-31-32 (b)	250.00
(c) Delinquent Fee after March 31	34-31-32 (b)	500.00
<b>Annual Renewal – Inactive Certification</b>	34-31-26 (b)	75.00
(a) Late Fee after December 31	34-31-32 (b)	50.00
(b) Penalty Fee after February 28	34-31-32(b)	250.00
(c) Delinquent Fee after March 31	34-31-32 (b)	500.00
<b>Replacement Card Fee</b>	34-31-25	25.00
<b>Examination Fee</b>	34-31-29 (c)	125.00
<b>Practical Examination</b>	34-31-29 (c)	300.00

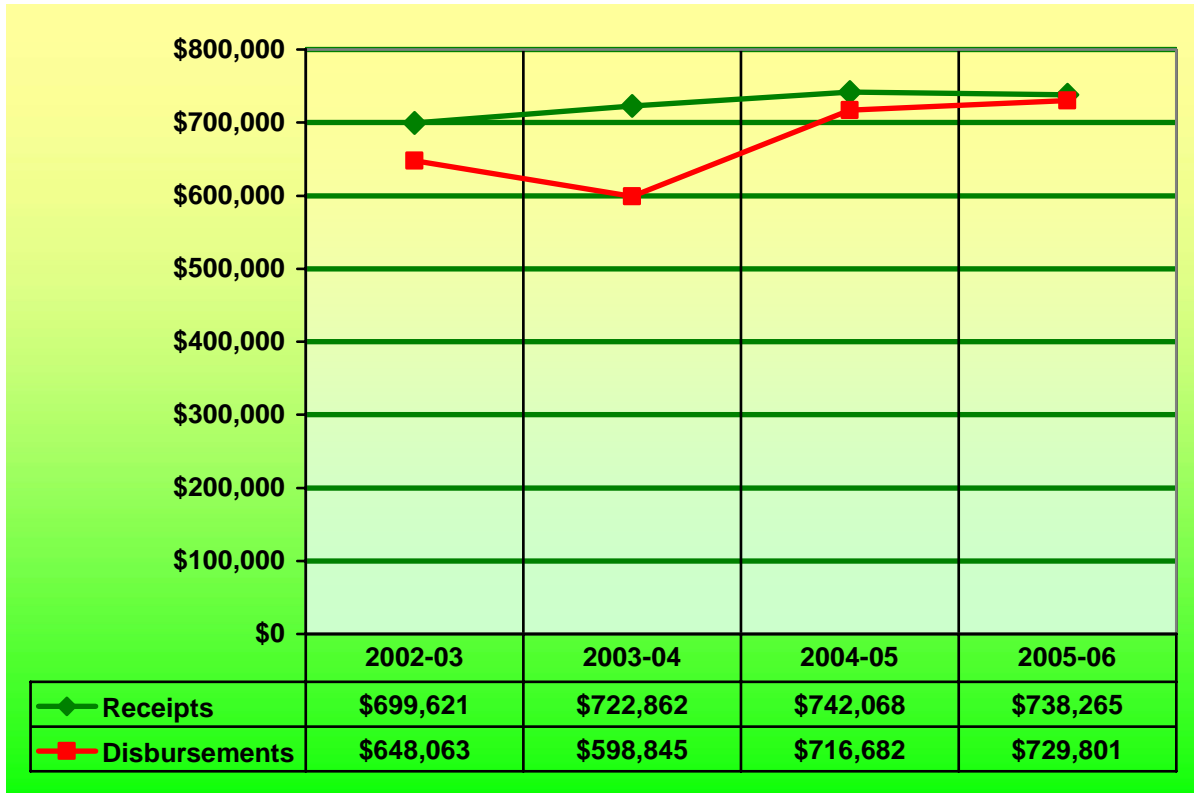
<b>Continuing Education Deficiency Plan</b>	34-31-26 (d)	25.00
<b>Administrative Fine</b>	34-31-32 (d)	500.00/per violation

**Schedule of Operating Receipts, Disbursements and Balances**  
**October 1, 2002 through September 30, 2006**

	2005-06	2004-05	2003-04	2002-03
<b><u>Receipts</u></b>				
License Fees	\$587,200.00	\$570,257.50	\$579,037.50	\$560,695.82
Examinations	66,175.00	64,450.00	53,600.00	58,575.00
Fines	45,450.00	49,350.00	52,225.00	32,700.00
Penalties	39,440.00	58,010.00	38,000.00	47,650.00
Total	<u>738,265.00</u>	<u>742,067.50</u>	<u>722,862.50</u>	<u>699,620.82</u>
<b><u>Disbursements</u></b>				
Personnel Costs	286,470.09	265,372.04	253,636.35	258,421.41
Employee Benefits	91,891.33	83,670.04	75,156.71	65,032.02
Travel In-State	28,280.67	18,843.10	16,980.62	18,687.65
Travel Out-of-State	14,391.97	5,687.54	12,168.22	2,608.76
Repairs and Maintenance	1,364.30	1,272.35	1,641.59	4,188.48
Rentals and Leases	54,169.05	58,788.47	56,542.82	51,868.79
Utilities and Communication	32,777.04	30,717.53	28,247.83	33,386.46
Professional Services	132,187.34	137,671.72	78,462.49	55,824.07
Supplies, Materials and Operating Expenses	64,555.60	55,607.43	51,591.82	61,416.24
Transportation Equipment Operations	14,040.14	11,364.56	9,297.77	10,343.19
Transportation Equipment Purchases				28,000.00
Capital Outlay		7,606.10		
Equipment Purchases	9,673.10	40,081.41	15,119.02	58,285.91
Transfer to General Fund (*)	6,546.21	77,792.03	5,993.99	63,430.37
Total Disbursements	<u>736,346.84</u>	<u>794,474.32</u>	<u>604,839.23</u>	<u>711,493.35</u>
Excess (Deficiency) of Receipts over Disbursements	1,918.16	(52,406.82)	118,023.27	(11,872.53)
Cash Balance at Beginning of Year	<u>264,233.41</u>	<u>316,640.23</u>	<u>198,616.96</u>	<u>210,489.49</u>
Cash Balance at End of Year	266,151.57	264,233.41	316,640.23	198,616.96
Reserved for Unpaid Obligations	<u>(112,698.48)</u>	<u>(54,470.17)</u>	<u>(50,684.95)</u>	<u>(38,772.97)</u>
Unreserved Cash Balance at End of Year	<u>\$153,453.09</u>	<u>\$209,763.24</u>	<u>\$265,955.28</u>	<u>\$159,843.99</u>

(\*) The ***Code of Alabama 1975***, Section 34-31-20 (b), requires that any funds in excess of 25% of the board's budget from the previous fiscal year must be paid into the state's General Fund.

**Operating Receipts vs. Operating Disbursements\* (Chart)**



*\* Operating Disbursements does not include transfers to the General Fund.*

## **QUESTIONNAIRES**

### **Board Member Questionnaire**

**Questionnaires were sent to all twelve board members. Nine responded.**

#### **Question #1**

**What are the most significant issues currently facing the Board of Heating and Air Conditioning and how is the Board addressing these issues?**

- 1) "The Board needs improved salaries for the employees. It is difficult to hire personnel (inspectors) on the salaries posted."
- 2) "We are a consumer advocacy board whose purpose is to protect and improve the craft as the public needs us. We are dedicated to this."
- 3) "Improving public safety by preventing unlicensed contractors from installing or servicing consumer's systems. The board has started a statewide advertising campaign to educate the public about the law."
- 4) "People doing work without the proper license; more depth in our testing to produce more qualified contractors; and poor quality of work coming from present contractors."
- 5) "Violations of state law/codes; suspension of licenses; advertisement to public/consumer; and to improve contractor's capability/education."
- 6) "The State of Alabama still has a problem with unlicensed contractors. Our inspectors are doing an outstanding job of policing this area."
- 7) "Protecting consumers from unlicensed contractors."
- 9) "Protecting and educating the public against unqualified persons performing heating and air conditioning work. Enhancing the industry through continuing education for contractors. These issues are addressed through the media."

#### **Question #2**

**What changes to the Board of Heating and Air Conditioning laws are needed?**

- 1) "The Board would like to regulate refrigeration contractors within the state. The Board would like to require contractors to place their name and license number on their service trucks. The Board would like to set applicant standards before a person sits for an examination."

## ***Board Member Questionnaire***

- 2) "Increase the public awareness that they are entitled to at least a minimum standard of expertise and integrity."
- 3) "More stringent requirements for new licensees. Increasing the qualifications for license holders."
- 4) "We are presently reviewing and making changes which will be sent to the Legislature for approval."
- 6) "Adding contractors that are in the refrigeration field to be under our jurisdiction. Having contractors to be required to place their license numbers on service/installation vehicles."
- 7) "Increase continuing education."
- 9) "Continuing education requirements for licensing certified contractors."

### **Question #3**

**Is the Board of Heating and Air Conditioning adequately funded?**

    4     Yes                          5     No

- 6) "Although funding may appear to be adequate, funds are always needed for new vehicles, personnel, etc."

### **Question #4**

**Is the Board of Heating and Air Conditioning adequately staffed?**

    2     Yes                          7     No

- 3) "The Board needs one additional investigator."
- 6) "We currently have only two inspectors for the entire State of Alabama. We need another inspector but the state limits the salaries which makes it hard to hire a qualified person."
- 7) "The board needs more inspectors."

### **Question #5**

**What is the purpose of your fiscal year end balance of unobligated funds?**

- 1) "The funds are needed to carry over to the new year when income is slow due to the timing of renewals."



## *Board Member Questionnaire*

- 2) "To make the public understand that this industry has certain minimum standards as set by this state board, and the consumer has this board to rely on."
- 3) "To have enough money on hand to operate between the end of the fiscal year and the receiving of new revenues through renewals."
- 5) "We need these funds for advertising for consumer awareness."
- 6) "Advertising is very good on getting the word out about our Board and what its function is. These funds are very important for advertising which is very expensive."
- 7) "Advertising."
- 9) "Educate the public through the media. Survey all contractors in the state to gather feedback that will help enhance the industry, and communicate with other states to gain valuable information."

**Licensee Questionnaire**

Questionnaires were sent to one hundred licensees. Forty-six responded.

**Question #1**

**Do you think regulation of your profession by the Board of Heating and Air Conditioning is necessary to protect public welfare?**

44 Yes      2 No

“It is too expensive for small businesses.”

**Question #2**

**Do you think any of the Board of Heating and Air Conditioning’s laws, rules, and policies are an unnecessary restriction on the practice of your profession?**

6 Yes      35 No      4 Unknown      1 No Opinion

“Certificate of deposit payable to board should be allowed in lieu of bond.”

**Question #3**

**Do you think any of the Board of Heating and Air Conditioning’s requirements are irrelevant to the competent practice of your profession?**

8 Yes      35 No      1 Unknown      2 No Opinion

**Question #4**

**Are you adequately informed by the Board of Heating and Air Conditioning of changes to and interpretations of Board’s positions, policies, rules and laws?**

27 Yes      17 No      2 Unknown

**Question #5**

**Has the Board of Heating and Air Conditioning performed your licensing renewal in a timely manner?**

45 Yes      1 No

**Question #6**

**What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board of Heating and Air Conditioning doing to address the issue(s)**

“There are still a number of people out there installing HVAC equipment that are not licensed and do not know what they are doing.”

“Continuing education. The Board handled it smoothly.”

“Factory maintenance employees with no license performing service on equipment after hours.”

“We would like to see the standard raised to allow people to get a license. There are too many people with HVAC businesses that do not perform quality workmanship and carry no general liability and workmen’s comp. We really see nothing being done at the present time about this. We are all about competition as long as it is a level playing field.”

“I think one of the most significant issues currently facing the Heating and Air Conditioning profession is the existence of non-licensed people performing work on their own. I think the Board is doing a good job of catching them.”

“Not sure if Board is policing non-qualified contractors adequately.”

“HVAC wholesalers selling to unlicensed and uncertified contractors.”

“Equipment sold to installers by unlicensed contractors.”

“It is too easy for the average Joe to get a license.”

“Stopping unlicensed repairmen. Continuing education should be free or stopped.”

“Unlicensed people being able to buy equipment and installing it.”

“Unlicensed contractors. I think they are doing the best they can to stop this practice.”

“Retail selling to the public”.

“We should address the issue of different installation factors in different cities. We should be under one state code, whatever it may be.”

“The sale of equipment to homeowners via the internet.”

“There have been some significant changes in our industry over the past several years. The introduction of 134A refrigerant, and the phase out of R-12; the introduction of 410A refrigerant, and the ongoing phase out of R-22; and in 2006 the phase out of 10 seer A/C units to 13 seer A/C units. Most of the changes in our industry such as the few referenced above, comes across as mere rumor to something somebody may have read in a trade magazine, or something somebody heard somewhere. I do *not* think the ***Alabama Board of Heating and Air Conditioning*** is doing their part in keeping us informed of industry changes, and how those changes are going to affect us. Some of these changes require us to purchase other equipment, for example, the requirement for us to recover, or reclaim our refrigerants from existing units. If notified in a timely manner we can make provisions to purchase this equipment. Does the board seek out suppliers or manufacturers for us so that when we have to purchase this kind of equipment, we are not scalped by industry suppliers knowing that we have to have and use this equipment under the law? What about continuing education, does the Board schedule classes for us to attend? Most of the classes that I attend are scheduled by other companies. I think there needs to be some major changes in the ***Alabama Board of Heating and Air Conditioning Contractors.***”

“Keeping up with changes with the new refrigerants, and codes dealing with energy efficiency.”

“Contractors working without a license. They need to do something about this issue.”

“Education. They are complying with this issue.”

“All municipalities should use a standard permit and work from the international code.”

“Too many air conditioning contractors.”

“In the Mobile area equipment is being sold to everyone who tries consistently. There should be a requirement to have a state card for each purchase. Also purchasers should have to be required to be licensed. With things as they are it is too easy to obtain air conditioning equipment.”

“They do nothing but take money from the licensed members. Alabama needs a good four year apprenticeship program. Applicants should work one year, go to school two months four times a year to become a journeyman.”

“Drawings by designers and architects that do not have a HVAC license stamping drawings. The system does not work! The HVAC contractor has to redo drawings, no pay.”

“I feel the exam to obtain a license is too easy. There are too many contractors that don’t know what they are doing. I feel the board should occasionally check every contractor’s work. I feel this would help with workmanship and customer satisfaction.”

“Not enough inspectors, especially residential. I’m not aware of anything being done.”

“Education. The Board is addressing this issue.”

“Unlicensed people doing service work is a big issue in Alabama. The board is making it hard for unlicensed people to buy parts, which is good. But, I think they should make it harder.”

“Unqualified individuals performing HVAC work. Testing and bonding requirements assure minimum qualifications.”

“The operation of unlicensed and uninsured people moonlighting that never have their jobs permitted by local governments or inspected by mechanical inspectors. This poses a safety risk to the public. The state board tries to stay on top of this problem as best they can.”

“Poor installation practice, especially new construction. Building inspectors do not require contractors to have a license.”

**Question #7**

**Do you think the Board of Heating and Air Conditioning and its staff are satisfactorily performing their duties?**

31 Yes      4 No      8 Unknown      3 No Opinion

“Ask them to justify their existence and back it up with facts.”

**Question #8**

**Has any member of the Board of Heating and Air Conditioning or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a Board of Heating and Air Conditioning service for you?**

0 Yes      46 No

**Complainant Questionnaire**

Questionnaires were sent to one hundred complainants. Fifty-one responded.

**Question #1**

Was your complaint filed with the Board of Heating and Air Conditioning by?

\_\_\_ 34 \_\_\_ Mail      \_\_\_ 10 \_\_\_ Phone      \_\_\_ 5 \_\_\_ Fax      \_\_\_ 2 \_\_\_ Other

**Question #2**

Was receipt of your complaint promptly acknowledged?

\_\_\_ 42 \_\_\_ Yes      \_\_\_ 6 \_\_\_ No      \_\_\_ 3 \_\_\_ Unknown

If yes, approximately how long after you filed your complaint were you contacted by the Board?

\_\_\_ 13 \_\_\_ Immediately      \_\_\_ 22 \_\_\_ Within 10 days      \_\_\_ 5 \_\_\_ Within 20 days

\_\_\_ 4 \_\_\_ Within 30 days      \_\_\_ 2 \_\_\_ More than 30 days

\_\_\_ 1 \_\_\_ Did not respond      \_\_\_ 4 \_\_\_ Unknown

“Only after I called my state senators and congressman did I get any action from the lady in charge of the investigators. She was rude to me in the beginning, but after I called my representatives only then did she act like she wanted to help me.”

**Question #3**

Was the employee who responded to your complaint knowledgeable and courteous?

\_\_\_ 10 \_\_\_ Knowledgeable      \_\_\_ 5 \_\_\_ Courteous      \_\_\_ 27 \_\_\_ Both

\_\_\_ 5 \_\_\_ Neither      \_\_\_ 4 \_\_\_ Unknown

**Question #4**

Did the Board of Heating and Air Conditioning communicate the results of investigating your complaint to you?

\_\_\_ 37 \_\_\_ Yes      \_\_\_ 8 \_\_\_ No      \_\_\_ 6 \_\_\_ Unknown

## *Complainant Questionnaire*

“They do not investigate complaints over 5 years old. With the evidence I submitted to the board it was evident the contractor shafted me.”

“They indicated that they notified the HVAC contractor of my letter.”

“One of the investigators went under my house three times. All three times he told me that the complaint was satisfied or fixed. After he went under the third time, I found insulation improperly taped and metal showing in three boots and a number of joists have metal showing.”

“They did nothing. A friend told me later that I should send a copy of my letter to the Better Business Bureau; however, I haven’t yet. The company was very deceptive.”

“They told me they could not help me because I had already had my air conditioner fixed. I didn’t know I was supposed to call them first.”

### **Question #5**

**Do you think the Board of Heating and Air Conditioning did everything it could to resolve your complaint?**

28 Yes

17 No

6 Unknown

“They did not send anyone out to look at the job that was done, and they did nothing to help me at all.”

“The inspector was very helpful and professional.”

“They could have had someone to check my home to see the problem instead of taking the contractor’s word.”

“No, I finally gave up on them. They were *in the beginning* taking up for the contractor, who by the way is not properly licensed. He is working under his deceased father’s license. I can show you photos of the poor workmanship and tell you a long story of how the job was done and left. Only when I found out that it was warmer under my house than it was inside, did I go under there and find the mess that the contractor left with me. If I had been some person who was unable to check things out, it would still be a mess under my house. I feel sorry for the many people he has dealt with that have been done this way. I can tell you this; the inspectors are just part of a big bureaucracy. They only move when the pressure gets on and then they are incompetent. To make three trips under my house and all the time not wanting to and still have an incomplete job shows how incompetent they are. They also fed me a bunch of bull about how they couldn’t force the contractor to do anything to correct the mistakes. Well I ask you, what are they hired to do.”

**Question #6**

**Were you satisfied with your dealings with the Board of Heating and Air Conditioning?**

29 Yes                      18 No                      4 Unknown

“We bought a unit thru [REDACTED]. [REDACTED] installed the unit. The unit is no longer working. I had to have [REDACTED] install a new unit. The unit [REDACTED] installed was not installed correctly. There wasn’t enough electricity going to the unit. Duct work wasn’t big enough. We had a split unit. [REDACTED] replaced it with a three ton and duct work wasn’t big enough. We had to replace two compressors. [REDACTED] replaced one air compressor and it went out. Then I had [REDACTED] to replace it. Air compressor only lasted a month. Now unit doesn’t work at all. I had [REDACTED] to put in a unit. It’s a split unit, now there’s enough electricity and correct duct work. New unit is working fine. The other unit went out in February 2007. I had a new unit put in March 2007. If you all would send someone out or call, I’ll have the old unit here.”

“The investigator came into our home having obviously spoken to the Heating and Air Conditioning subcontractor and having already made his decision. His determination was in direct opposition to all the evidence we had, which included two Heating and Air Conditioning companies, structural engineer, environmental engineers, our insurance company and a water restoration company. After speaking with him by phone upon receiving his determination in writing, insisting even though our complaint was the responsibility and fault of our contractor, it met our very faulty code for new construction.”

“I had no choice but to accept the board decision; however, I disagree with the decision. The mechanical contractor had numerous violations, but was not penalized for any of them. My personal impression is that he should have been fined or held accountable for the violations, but to no avail.”

“I had a complaint and I still have no satisfaction. I was informed by the Board that it was my responsibility to make sure the A/C unit was installed right. The person walked the unit and stated that he saw nothing wrong with the installation. My problem was the unit did not function right and it still doesn’t heat right. It runs too much. They worked on the unit several times. They can’t fix it and they refused to replace the unit.”

“They could have sent someone out to investigate the unit and installation to see if it was not done properly and see why I still have problems. They could have done something to resolve this matter. I still continue to have extremely high utility bills and problems with the unit. I feel [REDACTED] has gotten away with doing a bad job and doing me as a consumer very wrong. I have given him many chances to redeem himself and all he has ever done is talk bad to me and lie to me telling me he will come out and fix things and never has. I still have some problems, please help!”



## *Complainant Questionnaire*

“The Board representative/worker told me that they could not handle my case because the work was performed in Florida. However, a man (I don’t remember his name) talked to me on the phone and gave me some information about the company I filed the complaint about. I was able to use that information to help me understand how to deal with the company and later reach a settlement with the assistance of the State Attorneys Office in Florida.”

“Somewhat, I do not think that I should have to file such a complaint on a new home. I still feel that the Board did not handle this problem with the aggression needed to resolve our complaint.”

“The Board never asked for my input during the investigation. It was all from the contractor, and I had no input into the matter. I am extremely dissatisfied with the Board and the contractor. The contractor was very rude.”

“The investigator found problems but he did not acknowledge the problems. The problems still exists. I just don’t understand.”

“The person that contacted me on the phone was extremely courteous and knowledgeable. They carefully listened to me and explained the procedures for me to follow. I did call them several times and each time I received very helpful and courteous advice. My problem was solved in a very speedy and satisfactory manner.”

# APPENDICES

## Smart Budget Reports

State of Alabama EBO Form No. 4b	BOARD OF HEATING & AIR CONDITIONING CONTRACTORS FY 2005-2006 SMART OPERATIONS PLAN	Agency 345		
		ACTUAL FY04	BUDGET FY04	BUDGET FY05
<b>PROGRAM</b>	<b>Professional and Occupational Licensing and Regulation Board</b>			
<b>ACTIVITY 1</b>	<b>Certification/Regulation of Heating and Air Conditioning (\$ in thousands)</b>	\$618	\$878	\$916
<b>MISSION</b>	To protect the public by identifying and certifying on a statewide basis qualified contractors who have the knowledge and ability to install or service and repair heating and air conditioning systems (AL Code Sec. 34-31-18 to 34-31-35). ( <b>Governor's Priorities 1 &amp; 5</b> )			
<b>VISION (Optional)</b>	To serve as the leader in strengthening present certification laws in ensuring the safeguard of the general public to all types of health, safety and welfare conditions.			
<b>VALUES (Optional)</b>	A unified board that embraces the protection of the general public by unqualified substandard heating and air conditioning work.			
<b>GOAL(S)</b>	To review the qualifications of individuals for HVAC certification and issue license timely.			
	To administer technical exams for certification.			
	To receive and investigate complaints from homeowners or property owners to determine whether any statutory standard violations have occurred.			
	To conduct public awareness meetings and updates for continuing education requirements for certification.			
<b>WORKLOADS</b>	To receive and investigate complaints from homeowners or property owners to determine whether any statutory standard violations have occurred.			
<b>CRITICAL ISSUES</b>	Number of certified contractors will increase approximately 4% (no. contractors)			
<b>Internal</b>	Number of technical exams will remain unchanged.	4,028 375	4,200 375	4,368 375
<b>External</b>	Increase in number of field investigators			
	Improve public awareness and provide pertinent information to licensees.			
<b>OBJECTIVES</b>	Public falsely representing themselves as HVAC contractors			
<b>Spending</b>	No certification requirement for technicians who often perform the work.			
<b>Staffing</b>	Increase total spending by no more than 2% (% increase)			
<b>Efficiency</b>	Maintain full-time equivalent (FTE) staffing			
	Inc. unit cost of certification process and file maintenance by no more than 2% (\$spent/contractors)	0% 7.0	0% 7.0	2% 7.0
<b>Quality</b>	Complete 75% of consumer complaint investigations within 90 days of receipt.	\$153	\$209	\$210
	Increase number of unlicensed contractor activity investigated by 5%			
<b>Strategies</b>		79%	75%	75%
	Conduct public awareness meetings statewide and provide licensees semi-annual newsletter.	76	80	85
	Seek legislation to require certification of technicians.			

<b>Smart Quarterly Performance Report</b>											
<b>Fiscal Year: 2006</b>											
<b>Agency: 345 Heating and Air Conditioning Contractors, Board of</b>											
<b>Program: 653 PRO AND OCCU LICENSING AND REG</b>											
<b>Activity: 0479 CERT/REG OF HEAT/AC CONTRACTRS</b>											
<b>Performance Measures</b>		<b>First Quarter</b>		<b>Second Quarter</b>		<b>Third Quarter</b>		<b>Fourth Quarter</b>		<b>Annual</b>	
<b>Workload/Cost Factor</b>	<b>Performance Indicator</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
WC1: Number of certified contractors will increase approximately 4% (no. contractors)	4368	3,780	3,763	478	189	57	58	53	-26	4,368	3,984
WC2: Number of technical exams will remain unchanged	375	107	99	95	103	114	142	59	124	375	468
<b>Spending</b>	<b>Performance Indicator</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
SP1: Increase total spending by no more than 2%	0.02	0.005	0.13	0.005	0.109	0.005	-0.048	0.005	-0.051	0.02	0.09
<b>Staffing</b>	<b>Performance Indicator</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
ST1: Maintain full-time equivalent (FTE) staffing	10.6	10.6	8.0	10.6	8.0	10.6	8.0	10.6	8	10.6	7.5
<b>Efficiency</b>	<b>Performance Indicator</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
EF1: Increase unit cost of certification process and file maintenance by no more than 2% (\$spent/contractors)	210	210	42	210	78.73	210	117.68	210	202	210	202
<b>Quality</b>	<b>Performance Indicator</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>	<b>Projected</b>	<b>Actual</b>
QU1: Completes 75% of consumer complaint investigations within 90 days of receipt (projected = 100%)	0.75	16	26	37	41	20	30	20	43	93	140
QU2: Increase number of unlicensed contractors activity investigated by 5%	85	26	15	21	7	19	13	19	15	85	50

How have policy decisions and budget determinations made by the governor and the legislature in the fiscal year 2005-06 affected your agency in meeting its desired accomplishments and services?
Through the concerted efforts of the Governor and the Legislature, the Board, with the enactment of new Legislation, was able to raise the level of professionalism and expertise of the contractors by requiring education credits as a prerequisite for licensure renewal. This legislation also allows the agency the opportunity to enhance the Board's established consumer protection program.
What administrative improvements did your agency make in fiscal year 2005-06 and what potential improvements do you foresee for future years? Include suggested changes in legislation or administrative procedures which would aid your agency in these improvements.
The Board has developed new rules and regulations which have been approved by the Legislative Reference Service. These changes allow the Board the ability to carry out the mandated statutory requirements. These new statutory obligations require the Board to increase staff to competently carry out the Board's purpose.

<b>Agency/ Org</b>	345 - Heating and Air Conditioning Contractors, Board of
<b>Organization</b>	-
<b>Program</b>	653 - PRO AND OCCU LICENSING AND REG
<b>Activity</b>	-

<b>Mission</b>	To protect the public by certifying and regulating qualified contractors and enforcing the rules and regulations (AL Code Sec 34-31-18 to 34-31-35) (Governors Priorities 1 & 5)
<b>Vision</b>	Becoming the leader in establishing industry standards to insure the safeguard of the general public to all types of health, safety and welfare conditions.
<b>Values</b>	A Unified board that embraces the protection of the general public from unqualified and substandard heating and air conditioning work.
<b>Goals</b>	<p>G1: To review the qualifications of individuals for HVAC certification and issue license timely. (GP-1)</p> <p>G2: To administer technical exams for certification. (GP-1)</p> <p>G3: To receive and investigate complaints from homeowners or property owners to determine whether any statutory standard violations have occurred. (GP-5)</p> <p>G4: To conduct public awareness meetings and updates for continuing education requirements for certification. (GP-5)</p>

### Critical Issues

- Internal** IC11: Increase in number of field investigators (G30)
- Internal** IC12: Improve public awareness and provides pertinent information to licensees (G4)

<b>External</b> EC11: Public falsely representing themselves as HVAC contractors (G4)
<b>External</b> EC12: No certification requirement for technicians who often perform the work. (G1)
<b>External</b> EC13: Salary for field investigators inappropriate to attract quality personnel. (G3)
<b>External</b> EC12: No certification requirement for technicians who often perform the work. (G1)
<b>External</b> EC13: Salary for field investigators inappropriate to attract quality personnel. (G3)

### Strategies

1). Conduct public awareness meetings statewide and provide licensees semi-annual newsletters. (ICI1)
2). Seek legislation to require certification of technicians. (ECI2)

Workloads								Performance Indicator	
Number of certified contractors will increase approximately 4%								number	
FY 07 Projected: 4,542 FY 07 Target: 4,542									
FY07 Quarterly Projections:	1 st Qtr:	3906	2nd Qtr:	497	3 rd Qtr:	59	4 th Qtr:	80	
Number of technical exams will remain unchanged								number	
FY 07 Projected: 469 FY 07 Target: 375									
FY07 Quarterly Projections:	1 st Qtr:	107	2nd Qtr:	95	3 rd Qtr:	114	4 th Qtr:	59	

Objectives		Performance Indicator
Spending	Increase total spending by no more than 5%	

FY 07 Projected: 989,450 FY 07 Target: 0.05								
FY07 Quarterly Projections:	1 st Qtr:	.0125	2nd Qtr:	.0125	3 rd Qtr:	.0125	4 th Qtr:	.0125
Staffing	Maintain full-time equivalent (FTE) staffing						number of FTE personnel	
FY 07 Projected: 11.4 FY 07 Target: 11.0								
FY07 Quarterly Projections:	1 st Qtr:	11.0	2nd Qtr:	11.0	3 rd Qtr:	11.0	4 th Qtr:	11.0
Efficiency	Increase unit cost of certification process and file maintenance by no more than 2%						\$spent/contractors	
FY 07 Projected: 214 FY 07 Target: 214								
FY07 Quarterly Projections:	1 st Qtr:	214	2nd Qtr:	214	3 rd Qtr:	214	4 th Qtr:	214
Quality	Complete 75% of consumer complaint investigations within 90 days of receipt						percentage	
FY 07 Projected: 0.75 FY 07 Target: 93								
FY07 Quarterly Projections:	1 st Qtr:	16	2nd Qtr:	37	3 rd Qtr:	20	4 th Qtr:	20
	Increase number of unlicensed contractor activity investigated by 5%						number investigated	
FY 07 Projected: 89 FY 07 Target: 89								
FY07 Quarterly Projections:	1 st Qtr:	26	2nd Qtr:	21	3 rd Qtr:	19	4 th Qtr:	23

Source of Funds			
Fund Code	Fund Name	Requested FY 07	Budgeted FY 07
0411	Board Certified Heat/Air Conditioning Contractors	\$989,450	\$1,009,173
<b>Total of all Funds Listed Above:</b>		<b>\$989,450</b>	<b>\$1,009,173</b>

**Statutory Authority**

**CHAPTER 31. HEATING AND AIR CONDITIONING CONTRACTORS.**

**§ 34-31-18. Definitions.**

For the purposes of this chapter, the following terms shall have the meanings herein ascribed to them unless the context clearly indicates otherwise:

(1) Certified contractor. Any individual or any regularly employed person for any partnership or corporation who for hire is engaged in the installation or service and repair of heating and air conditioning systems; provided that nothing in this chapter shall apply to retail sellers of heating and air conditioning systems who do not install said systems themselves. A certified contractor is authorized to install or service and repair or replace natural gas heating and air conditioning appliances, including specifically the servicing, repair, or replacement of those appliances in manufactured housing set up as stationary housing, but excluding the piping to such appliances, and except as otherwise prohibited by law.

(2) Installation. The act of setting up or installing a heating and air conditioning system for operation and use.

(3) Service and repair. The act of maintaining for operation a heating and air conditioning system which has previously been installed including parts replacement within a piece of equipment, including but not limited to, systems previously installed in manufactured housing set up as stationary housing.

(4) Board. The State Board of Heating and Air Conditioning Contractors, herein established.

(5) Heating and air conditioning systems or System. A heating and/or cooling apparatus consisting of an air heating and/or cooling fixture from pipes, plenums or blowers including any accessory and equipment installed in connection herewith; specifically excluding window units, automotive or farm implement type heating and/or air conditioning equipment.

(6) Administrative Procedures Law. Sections 41-22-1 through 41-22-27, and any subsequent amendment or supplement thereto, and any rules or regulations promulgated thereto.

(7) Responsible charge. The direction of projects involving the installation or service and repair of heating and air conditioning systems requiring initiation, professional skills, technical knowledge and independent judgment.

(Acts 1982, No. 82-547, p. 900, § 3.1; Acts 1988, No. 88-217, p. 339, § 3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, § 3; Acts 1992, No. 92-180, p. 333, § 3.)

10 Ala. Admin. Code 440-X-3-.09, Board of Heating and Air Conditioning Contractors; Licensing and Fees; Person in Responsible Charge and Obligations of Person in Responsible Charge.

### **§ 34-31-19. Purpose.**

The purpose of this chapter is to certify qualified contractors on a state-wide basis in order to protect the public by identifying those contractors who have the knowledge and ability to install or service and repair heating and air conditioning systems. (Acts 1982, No. 82-547, p. 900, § 3.2; Acts 1988, No. 88-217, p. 339, § 3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, § 3.)

### **§ 34-31-20. Board of Heating and Air Conditioning Contractors -- Creation; composition; transfer of property, etc.**

(a) There is created the Board of Heating and Air Conditioning Contractors. The board shall consist of 12 members, who shall be subject to confirmation by the Senate. The seven initial appointments shall be effective as of July 1, 1982 as follows: One member shall be appointed by the Governor for an initial term of one year, and shall be a licensed professional engineer; one member shall be appointed by the Governor for an initial term of four years and shall be a heating and air conditioning contractor; one member shall be appointed by the Lieutenant Governor for an initial term of three years and shall be a trade representative of an equipment manufacturer or supplier; one member shall be appointed by the Governor for an initial term of three years and shall be a consumer from the general public; one member shall be appointed by the Speaker of the House of Representatives for an initial term of two years and shall be a trade representative of the service, repair parts industry; one member shall be appointed by the Lieutenant Governor for an initial term of two years, and shall be a representative from county or local inspection services department; and one member shall be appointed by the Speaker of the House of Representatives for an initial term of three years, and shall be a consumer from the general public. Three additional members shall be appointed to serve four-year terms beginning on January 1, 2001. Each of these three additional members shall be heating and air conditioning contractors. One of these additional members shall be appointed by the Governor, one of these additional members shall be appointed by the Lieutenant Governor, and one of these additional members shall be appointed by the President Pro Tempore of the Senate. An additional two members, who shall be heating and air conditioning contractors, shall be appointed by the Speaker of the House of Representatives for initial terms of three years. Their successors, who shall be appointed by the same respective appointing authorities, and shall possess the same respective occupational qualifications, shall each serve not more than two consecutive terms of office of four years each and until their successors are appointed and qualified. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(b) All moneys, equipment, and property of the board created pursuant to Sections 34-31-1 through 34-31-17, inclusive, shall, effective July 1, 1982, be transferred to the board created in subsection (a). The board shall pay all money received under this chapter to the State Treasurer, who shall keep the money in a separate fund for the board. All money remaining at the end of the fiscal year which exceeds 25 percent of the board's budget for the previous year shall be transferred to the State General Fund. (Acts 1982, No. 82-547, p. 900, § 3.3; Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, § 1;

Acts 1988, No. 88-217, p. 339, § 3; Acts 1996, No. 96-748, p. 1318, § 3; Act 2000-745, p. 1658, § 1; Act 2004-67, p. 82, § 3.)

**§ 34-31-21. Board of Heating and Air Conditioning Contractors -- Officers; meetings; powers and duties.**

(a) The board shall elect from among its members a chairman, vice-chairman, and a secretary. The board may hire an executive director to serve at the pleasure of the board. The board may require the executive director to perform the duties required by this section and any other tasks required by the board. The board shall set the salary of the executive director. The board may employ a deputy director who shall serve at the pleasure of the board. The salary and compensation for the deputy director shall be set by the board and shall not exceed the salary set for the executive director.

(b) The chairman shall preside over meetings of the board. The vice-chairman shall preside over meetings of the board in the absence of the chairman. The chairman shall designate another member to preside in the absence of the chairman and vice-chairman.

(c) The secretary or, if directed by the board, the executive director shall perform the following tasks:

- (1) Keep all minutes, books, records, and files of the board.
- (2) Issue all certificates in the name of the board.
- (3) Send all notices and attend to all correspondence directed by the board.
- (4) Receive and deposit all fees.
- (5) Perform all incidental duties of the office as directed by the board.

(d) The secretary shall give bond, payable to the Governor, in the penal sum of \$5,000.00 for the faithful performance of his duties, and the premium therefor shall be paid from the fees of the board.

(e) No moneys shall be withdrawn from the funds of the board except by direction of the board as provided by state law.

(f) A majority of the board shall constitute a quorum for the transaction of all business.

(g) The board is also authorized to adopt and publish minimum repair and service standards for its certified contractors, and shall mail a copy thereof to every certified contractor at least 30 days before the standard of criteria becomes effective. Certified contractors who fail to comply with such minimum standards and criteria shall be punished as prescribed in Section 34-31-32(a).

(h) The board is authorized to hold hearings, call witnesses, administer oaths, take testimony and obtain evidence in the conduct of its business. It is further authorized to take such disciplinary actions as are authorized in subsection (c) of Section 34-31-32. (Acts 1982, No. 82-547, p. 900, § 3.4; Acts 1986, No. 86-118, p. 143, § 3; Acts 1988, No. 88-217, p. 339, § 3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, § 3; Acts 1992, No. 92-180, p. 333, § 3; Act 2000-745, p. 1658, § 1.)

**§ 34-31-22. Board of Heating and Air Conditioning Contractors -- Compensation.**

Each member of the board shall receive one hundred dollars (\$100) per day for attending sessions of the board or its committees and, in addition, shall be reimbursed for



such necessary travel expenses as are paid to state employees, to be paid from fees collected.

(Acts 1982, No. 82-547, p. 900, § 3.5; Act 2000-745, p. 1658, § 1.)

**§ 34-31-23. Board of Heating and Air Conditioning Contractors -- Regular meetings.**

The board shall meet in a regular session to perform its lawful duties at least once each three-month period.

(Acts 1982, No. 82-547, p. 900, § 3.6.)

**§ 34-31-24. Only certified contractors to advertise, etc.; certificate of qualification required for licensure.**

No individual, partnership or corporation shall advertise, solicit, bid, obtain permit, do business, or perform the function of a certified contractor unless the person or persons in responsible charge, as defined in Section 34-31-18(7), are certified contractors.

No official charged with the duty of issuing licenses to any individual, partnership or corporation to operate a business as a certified contractor shall issue such license unless there is presented for inspection a certificate of qualification as provided for herein issued by the board to the individual or to some person in responsible charge with the partnership or corporation.

(Acts 1982, No. 82-547, p. 900, § 3.7; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, § 3.)

**§ 34-31-25. Application and renewal fees; use of penalties collected.**

(a) For the purpose of defraying the expense in carrying out the provisions of this chapter, the board may fix fees to be paid by applicants for certificates, but in no event shall the charges fixed by said board exceed two hundred dollars (\$200). All fees fixed by the board must accompany the application for examination, and no part of said fees shall be refunded. Said fees shall be received by the board and held solely for the purpose of paying the expense of carrying out the provisions of this chapter.

(b) All penalties collected by the board shall be used in the same manner and for the same purpose as fees.

(c) Renewal fees shall be established by the board as to insure adequate funding to support the board. Fees shall not exceed two hundred dollars (\$200) per year. The amount of these fees shall be established by the board on an annual basis to provide adequate funding to support the board and to pay the expenses incurred for applications, examinations, and/or renewals of licenses.

(Acts 1982, No. 82-547, p. 900, § 3.8; Acts 1992, No. 92-180, p. 333, § 3; Act 2000-745, p. 1658, § 1.)

**§ 34-31-26. Renewal of certificates; inactive status; continuing education.**

(a) All certificates provided for herein shall be renewed annually, not later than 90 days after the first day of October of each year. All holders of certificates may be

renewed annually, provided that the certified contractor has complied with all provisions of law and rules and regulations of the board thereof, upon payment of a renewal fee set forth by the board as provided for in this chapter.

(b) Any person certified by the board may elect an inactive status certificate by notifying the board in writing. The fee for the issuance and renewal of an inactive status certificate shall be established by the board in an amount not to exceed one-half of the amount set for fees pursuant to Section 34-31-25.

(c) The board shall provide by rule or regulation those activities which an inactive status certificate holder may engage in, and for a procedure for the reinstatement as an active status certificate holder.

(d) The board shall adopt an annual program of continuing education for its certified contractors by January 1 of each year. All certified contractors shall be required to complete eight hours of continuing education over a two-year period. This minimum continuing education requirement will begin during the calendar year 2001. All certified contractors will be required to complete the minimum continuing education requirements prior to renewal in all years beginning January 1, 2002. The failure to complete the minimum continuing education during the two-year period shall prevent the renewal of the certified contractor's license until proof of compliance with the continuing education requirement is submitted to the board. The board may permit a certified contractor to submit a deficiency plan to the board for approval by January 1 of each year for medical hardships and emergencies that prevent the certified contractor from complying with the continuing education requirements on time. This deficiency plan shall be specific in describing the plan for full compliance with the continuing education requirement and shall be accompanied by a deficiency plan fee established by the board.

(Acts 1982, No. 82-547, p. 900, § 3.9; Acts 1992, No. 92-180, p. 333, § 3; Act 2000-745, p. 1658, § 1.)

#### **§ 34-31-27. Form of applications for examinations, certificates and renewal certificates.**

All applicants for examinations and certificates and all applicants for renewal certificates shall be required to fill out a form which shall be provided by the board. (Acts 1982, No. 82-547, p. 900, § 3.10.)

#### **§ 34-31-28. Examinations for certification; performance bond; further testing, etc., by localities prohibited.**

(a) All prospective certified contractors in this state desiring to qualify in accordance with the provisions of this chapter shall be required to stand for a written examination before the board. Any applicant failing to pass his first examination for a certificate shall be entitled to take any subsequent examination, either written or, upon request of the applicant, an oral or practical examination which is equivalent to the written examination, to be held within six months from the date of his first or latest unsuccessful examination.

(b) All persons engaged in the business of installation or service and repair for a period of at least two years prior to September 30, 1988, shall apply with the board for certification not later than August 31, 1992. Such persons shall not be required to stand

for an examination, but shall pay the same renewal fees which are charged all other certified contractors.

(c) The board is hereby authorized to require a performance bond in the amount of ten thousand dollars (\$10,000) per year for certified contractors who, upon valid complaint and investigation by the board, are found to have performed substandard installation, service and repair work.

(d) Counties, municipalities, or other local entities are hereby prohibited from requiring any further local testing or other requirements of certified contractors, subject to the payment of any applicable local privilege, license, or business fees or charges.

(Acts 1982, No. 82-547, p. 900, § 3.11; Acts 1986, No. 86-118, p. 143, § 3; Acts 1988, No. 88-217, p. 339, § 3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, § 3; Acts 1992, No. 92-180, p. 333, § 3; Act 2000-745, p. 1658, § 1.)

#### **§ 34-31-29. Examinations generally; reciprocity agreements.**

(a) The board shall provide for examinations which test the knowledge, skill, and proficiency of the applicants. Subject matter shall be limited to the following subjects: Safety, basic heating and air conditioning theory, refrigeration as applied to air conditioning, diagnostic trouble shooting, repair or servicing of heating and air conditioning systems, air handling, standard mechanical codes, standard gas codes, standard electrical codes, equipment installations, and duct sizing as they relate to heating and air conditioning.

(b) All test questions shall be prepared to deal with the criteria on a trade level only. Examinations shall be held at such time and place as may be fixed by the board at least once each three-month period. Written notice of the time and place of examinations shall be mailed to all persons who have filed current applications for the examinations of the board.

(c) The board may charge each applicant for examination a reasonable fee based on the actual costs for administering the examinations.

(d) The board may enter into reciprocity agreements with other states to permit Alabama certified contractors to engage in work in other states in exchange for that state's contractors being permitted to perform work in Alabama. This provision recognizes the status of the certified contractor as having passed the examination; however, all fees are required to be paid.

(Acts 1982, No. 82-547, p. 900, § 3.12; Acts 1988, No. 88-217, p. 339, § 3; Acts 1992, No. 92-180, p. 333, § 3; Act 2000-745, p. 1658, § 1.)

#### **§ 34-31-30. Bond requirement authorized.**

The board may, in its discretion, when needed to assure financial stability, and professional competence may, in its discretion, require applicants for certification to post bond for the purpose of insuring performance by the certified contractor of any contract agreement into which he may enter. There shall be no discrimination between contractors similarly situated, and each classification of regulated contractors for bonding purposes must be reasonable in light of the purpose of the bond.

(Acts 1982, No. 82-547, p. 900, § 3.13.)

### **§ 34-31-31. List of certified contractors.**

The board may publish annually a list of names, addresses of all individuals and the name of their employer, if applicable, who are certified by the board, and shall mail a copy of said list to all qualified individuals so certified upon request to do so. The board may require a reasonable fee to cover the cost of producing and mailing said directory. (Acts 1982, No. 82-547, p. 900, § 3.14; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, § 3; Act 2000-745, p. 1658, § 1.)

### **§ 34-31-32. Violations; penalties.**

(a) Any person engaged in business as a certified contractor or performing the functions of a certified contractor in violation of this chapter shall be guilty of a Class A misdemeanor, as defined by the state criminal code.

(b) The board may, at its discretion, impose late penalties on those certified contractors who fail to renew certificates by December 31 of each year. The board may also remove certification from any certified person who fails to renew his or her certificate by the first day of March and require the person to apply for a new certificate. Furthermore, the board may at its discretion, remove, revoke or suspend the certification from any certified contractor who provides substandard or dangerous service, repair, or installation, or who otherwise violates this chapter, and may require such person to apply for a new certification. The board may, in its discretion, also require the successful re-testing of any such person who applies for a new certification.

(c) The board may reprimand, in writing, any certified contractor who provides substandard or dangerous service, repair, or installation, or who otherwise violates this chapter.

(d) The board may levy and collect administrative fines for serious violations of this chapter or the rules and regulations of the board of not more than five hundred dollars (\$500) for each violation.

(e) In addition to or in lieu of the criminal penalties and administrative sanctions provided in this chapter, the board may issue an order to any person, firm, or corporation engaged in any activity, conduct, or practice constituting a violation of this chapter, directing the person, firm, or corporation to forthwith cease and desist from the activity, conduct, practice, or performance of any work then being done or about to be commenced. The order shall be issued in the name of the State of Alabama under the authority of the board. If the person, firm, or corporation to whom the board directs a cease and desist order does not cease or desist the proscribed activity, conduct, practice, or performance of work immediately, the board shall cause to issue in any court of competent jurisdiction and proper venue, a writ of injunction enjoining the person, firm, or corporation from engaging in any activity, conduct, practice, or performance of work prohibited by this chapter. Upon showing by the board that the person, firm, or corporation has engaged or is engaged in any activity, conduct, practice, or performance of work prohibited by this chapter, the courts shall issue a temporary restraining order restraining the person, firm, or corporation from engaging in such unlawful activity, conduct, practice, or performance of work pending the hearing on a preliminary

injunction, and in due course a permanent injunction shall issue after the hearing, commanding the cessation of the unlawful activity, conduct, practice, or performance of work complained of, all without the necessity of the board having to give bond. A temporary restraining order, preliminary injunction, or permanent injunction issued pursuant to this subsection shall not be subject to being released on bond. In the suit for an injunction, the board may demand of the defendant a fine of up to five hundred dollars (\$500) plus costs for each offense. Anyone violating this chapter who fails to cease work, after a hearing and notification from the board, shall not be eligible to apply for a certified contractor's license for a period not to exceed one year from the date of official notification to cease work. The board may withhold approval, for up to six months, of any application from anyone who prior to the application has been found in violation of this chapter.

(Acts 1982, No. 82-547, p. 900, § 3.15; Acts 1988, No. 88-217, p. 339, § 3; Acts 1992, No. 92-180, p. 333, § 3; Act 2000-745, p. 1658, § 1; Act 2004-67, p. 82, § 3.)

#### **§ 34-31-33. Procedure.**

Said procedures shall be same as those defined in the Alabama Administrative Procedure Act, Chapter 22 of Title 41. The board may establish additional procedures as needed provided that said procedure is published and made public and are not in conflict with the state law.

(Acts 1982, No. 82-547, p. 900, § 3.16; Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, § 1.)

#### **§ 34-31-35. Sunset provision.**

The State Board of Heating and Air Conditioning Contractors shall be subject to the Alabama Sunset Law, Title 41, Chapter 20, as an enumerated agency as provided in Section 41-20-3, and shall have a termination date of October 1, 2004, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.

(Act 2000-745, p. 1658, § 2.)

**SB442 (2007 Session)**

1 SB442  
2 91528-1  
3 By Senator Mitchell  
4 RFD: Governmental Affairs  
5 First Read: 26-APR-07

Page 0

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, the State Board of  
9 Heating and Air Conditioning Contractors regulate  
10 businesses which install, service, and repair  
11 heating and air conditioning systems.

12 This bill would expand the authority of the  
13 board to include certification of refrigeration  
14 systems.

15 This bill would also require regulated  
16 contractors to display their certification number  
17 and company name on documents, advertising forms,  
18 and vehicles used in conjunction with their  
19 business and would prohibit a contractor from  
20 allowing his or her license to be used by another  
21 person.

22 This bill would define an apprentice and  
23 provide for their board registration and renewal  
24 fees.

25 This bill would allow an applicant with an  
26 apprentice registration for two years, or

1 completion of certain certifications be eligible  
2 for an examination for certification.

3 This bill would also allow for certain  
4 exemptions from a written examination.

5 This bill would require applicants to take  
6 the certification exam within one year from the  
7 date the board receives their application and fee,  
8 or require the applicant to resubmit the  
9 application and fee.

10 This bill would increase the continuing  
11 education requirements by certified contractors.

12 This bill would increase the amount of a  
13 performance bond for all active certified  
14 contractors.

15 This bill would also increase the fines the  
16 board may collect for board rule violations to  
17 \$2,000.

18

19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 To further provide for the State of Alabama Board of  
24 Heating, Air Conditioning and Refrigeration by amending  
25 Sections 34-31-18, 34-31-19, 34-31-20, 34-31-24, 34-31-25,  
26 34-31-26, 34-31-28, 34-31-29, 34-31-30, 34-31-32, and 34-31-35  
27 of the Code of Alabama 1975, to provide for the regulation of



1       refrigeration contractors; to require contractors to display  
2       their certification number; to prohibit another person's use  
3       of a license; to provide for an apprentice registration and  
4       board fees; to require yearly continuing education programs;  
5       to provide certain certification examination requirements and  
6       exemptions; to require performance bonds; and to allow for  
7       board fines.

8       BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9               Section 1. Sections 34-31-18, 34-31-19, 34-31-20,  
10       34-31-24, 34-31-25, 34-31-26, 34-31-28, 34-31-29, 34-31-30,  
11       34-31-32, and 34-31-35 of the Code of Alabama 1975, are  
12       amended to read as follows:

13               "§34-31-18.

14               "For the purposes of this chapter, the following  
15       terms shall have the meanings herein ascribed to them unless  
16       the context clearly indicates otherwise:

17               "~~(6)~~ (1) ADMINISTRATIVE PROCEDURES LAW. Sections  
18       41-22-1 through 41-22-27, and any subsequent amendment or  
19       supplement thereto, and any rules or regulations promulgated  
20       thereto.

21               "(2) APPRENTICE. A person other than a certified  
22       heating, air conditioning, or refrigeration contractor, who is  
23       engaged in learning and assisting in the installation, service  
24       or repair of a heating, air conditioning, or refrigeration  
25       system and working under the direct supervision of a certified  
26       heating, air conditioning, or refrigeration contractor, and  
27       who has successfully fulfilled the voluntary registration

1 requirements of the board and has been duly registered by the  
2 board as such for the current year.

3 "(4) (3) BOARD. The State Board of Heating, and Air  
4 Conditioning, and Refrigeration Contractors, herein  
5 established.

6 "(4) CERTIFICATION. The process of testing to  
7 determine the knowledge and skill of an individual with  
8 respect to heating, air conditioning, and refrigeration. This  
9 term is used herein interchangeably with the term "license".

10 "(1) (5) CERTIFIED HEATING AND AIR CONDITIONING  
11 CONTRACTOR. Any individual or any regularly employed person  
12 for any partnership or corporation who for hire is engaged in  
13 the installation or service and repair of heating and air  
14 conditioning systems, provided that nothing in this chapter  
15 shall apply to retail sellers of heating and air conditioning  
16 systems who do not install said systems themselves. A  
17 certified contractor is authorized to install or service and  
18 repair or replace natural gas heating and air conditioning  
19 appliances, including specifically the servicing, repair, or  
20 replacement of those appliances in manufactured housing set  
21 up as stationary housing, but excluding the piping to such  
22 appliances, and except as otherwise prohibited by law.

23 "(6) CERTIFIED REFRIGERATION CONTRACTOR. Any and all  
24 legal entities engaged in the business of refrigeration  
25 contracting and servicing, installation, and repair.

26 "(5) (7) HEATING AND AIR CONDITIONING SYSTEMS OR  
27 SYSTEM. A heating and/or cooling apparatus consisting of an

1 air heating and/or cooling fixture from pipes, plenums or  
2 blowers including any accessory and equipment installed in  
3 connection herewith; specifically excluding window units,  
4 automotive or farm implement type heating and/or air  
5 conditioning equipment.

6 ~~"(2) (8)~~ INSTALLATION. The act of setting up or  
7 installing a heating and air conditioning system or  
8 refrigeration system for operation and use.

9 ~~"(9)~~ REFRIGERATION. The use of mechanical or  
10 absorption equipment to control temperature, humidity, or  
11 both, in order to satisfy the intended use of a specific  
12 space, other than for human comfort.

13 ~~"(10)~~ REFRIGERATION TRADE OR BUSINESS. Includes any  
14 and all legal entities engaged in the installation,  
15 maintenance, servicing, and repairing of refrigerating  
16 machinery, equipment, devices, and components.

17 ~~"(11)~~ REGULARLY EMPLOYED PERSON. A person who is an  
18 actual employee of the business, not an independent  
19 contractor. The person must work on an average of 30 or more  
20 hours per week for the heating, air conditioning, or  
21 refrigeration business. A regularly employed person must not  
22 be paid as an independent contractor and must receive a W-2  
23 for all earnings.

24 ~~"(7) (12)~~ RESPONSIBLE CHARGE. The direction of  
25 projects involving the installation or service and repair of  
26 heating, and air conditioning, and refrigeration systems

1 requiring initiation, professional skills, technical knowledge  
2 and independent judgment.

3 "~~(3)~~ (13) SERVICE AND REPAIR. The act of maintaining  
4 for operation a heating, ~~and~~ air conditioning, or  
5 refrigeration system which has previously been installed  
6 including parts replacement within a piece of equipment,  
7 ~~including but not limited to, systems previously installed in~~  
8 ~~manufactured housing set up as stationary housing.~~

9 "\$34-31-19.

10 "The purpose of this chapter is to certify qualified  
11 contractors on a state-wide basis in order to protect the  
12 public by identifying those contractors who have the knowledge  
13 and ability to install or service and repair heating, ~~and~~ air  
14 conditioning, and refrigeration systems.

15 "\$34-31-20.

16 "(a) ~~There is created the Board of Heating and Air~~  
17 ~~Conditioning Contractors. The Board of Heating and Air~~  
18 Conditioning Contractors as created by Act 82-547, 1982  
19 Regular Session (Acts 1982, p. 900), is renamed the Board of  
20 Heating, Air Conditioning, and Refrigeration Contractors. The  
21 authority of the board is expanded to allow the board to  
22 examine, certify, and regulate heating, air conditioning, and  
23 refrigeration on a statewide basis.

24 "(b) The board shall consist of 12 members, who  
25 shall be subject to confirmation by the Senate. The seven  
26 initial appointments shall be effective as of July 1, 1982 as  
27 follows: One member shall be appointed by the Governor for an

1 initial term of one year, and shall be a licensed professional  
2 engineer; one member shall be appointed by the Governor for an  
3 initial term of four years and shall be a heating and air  
4 conditioning contractor; one member shall be appointed by the  
5 Lieutenant Governor for an initial term of three years and  
6 shall be a trade representative of an equipment manufacturer  
7 or supplier; one member shall be appointed by the Governor for  
8 an initial term of three years and shall be a consumer from  
9 the general public; one member shall be appointed by the  
10 Speaker of the House of Representatives for an initial term of  
11 two years and shall be a trade representative of the service,  
12 repair parts industry; one member shall be appointed by the  
13 Lieutenant Governor for an initial term of two years, and  
14 shall be a representative from county or local inspection  
15 services department; and one member shall be appointed by the  
16 Speaker of the House of Representatives for an initial term of  
17 three years, and shall be a consumer from the general public.  
18 Three additional members shall be appointed to serve four-year  
19 terms beginning on January 1, 2001. Each of these three  
20 additional members shall be heating and air conditioning  
21 contractors. One of these additional members shall be  
22 appointed by the Governor, one of these additional members  
23 shall be appointed by the Lieutenant Governor, and one of  
24 these additional members shall be appointed by the President  
25 Pro Tempore of the Senate. An additional two members, who  
26 shall be heating and air conditioning contractors, shall be  
27 appointed by the Speaker of the House of Representatives for

1 initial terms of three years. Their successors, who shall be  
2 appointed by the same respective appointing authorities, and  
3 shall possess the same respective occupational qualifications,  
4 shall each serve not more than two consecutive terms of office  
5 of four years each and until their successors are appointed  
6 and qualified. The membership of the board shall be inclusive  
7 and reflect the racial, gender, geographic, urban/rural, and  
8 economic diversity of the state.

9 ~~"(b) (c)~~ All moneys, equipment, and property of the  
10 board created pursuant to Sections 34-31-1 through 34-31-17,  
11 inclusive, shall, effective July 1, 1982, be transferred to  
12 the board created in subsection (a). The board shall pay all  
13 money received under this chapter to the State Treasurer, who  
14 shall keep the money in a separate fund for the board. All  
15 money remaining at the end of the fiscal year which exceeds 25  
16 percent of the board's budget for the previous year shall be  
17 transferred to the State General Fund.

18 "\$34-31-24.

19 "(a) No individual, partnership, or corporation  
20 shall advertise, solicit, bid, obtain permit, do business, or  
21 perform the function of a certified contractor unless the  
22 person or persons in responsible charge, as defined in Section  
23 34-31-18(7), are certified contractors.

24 "(b) Every contractor licensed under this chapter  
25 shall display the contractor's certification number and the  
26 company name on any and all documentation, forms of  
27 advertising, and on all service and installation vehicles used

1 in conjunction with heating, air conditioning, and  
2 refrigeration contracting.

3 "(c) A contractor licensed under this chapter may  
4 not permit the use of his or her license by any other persons.

5 "(d) No official charged with the duty of issuing  
6 licenses to any individual, partnership or corporation to  
7 operate a business as a certified contractor shall issue such  
8 license unless there is presented for inspection a certificate  
9 of qualification as provided for herein issued by the board to  
10 the individual or to some person in responsible charge with  
11 the partnership or corporation.

12 "§34-31-25.

13 "(a) For the purpose of defraying the expense in  
14 carrying out the provisions of this chapter, the board may fix  
15 fees to be paid by applicants for certificates, but in no  
16 event shall the charges fixed by said board exceed two hundred  
17 dollars (\$200). The inactive fees may be waived for building  
18 officials or inspectors, as defined by the International Code  
19 Council. All fees fixed by the board must accompany the  
20 application ~~for examination~~, and no part of said fees shall be  
21 refunded. Said fees shall be received by the board and held  
22 solely for the purpose of paying the expense of carrying out  
23 the provisions of this chapter.

24 "(b) Fees for apprentice registration and annual  
25 renewal fees shall not exceed fifty dollars (\$50).

26 ~~"(b)~~ (c) All penalties collected by the board shall  
27 be used in the same manner and for the same purpose as fees.

1           ~~"(c)~~ (d) Renewal fees shall be established by the  
2       board as to insure adequate funding to support the board. Fees  
3       shall not exceed two hundred dollars (\$200) per year. The  
4       amount of these fees shall be established by the board on an  
5       annual basis to provide adequate funding to support the board  
6       and to pay the expenses incurred for applications,  
7       examinations, and/or renewals of licenses.  
8           "\$34-31-26.  
9           "(a) All certificates provided for herein shall be  
10      renewed annually, not later than 90 days after the first day  
11      of October of each year. All holders of certificates may be  
12      renewed annually, provided that the certified contractor has  
13      complied with all provisions of law and rules and regulations  
14      of the board thereof, upon payment of a renewal fee set forth  
15      by the board as provided for in this chapter.  
16           "(b) Any person certified by the board may elect an  
17      inactive status certificate by notifying the board in writing.  
18      The fee for the issuance and renewal of an inactive status  
19      certificate shall be established by the board in an amount not  
20      to exceed one-half of the amount set for fees pursuant to  
21      Section 34-31-25.  
22           "(c) The board shall provide by rule or regulation  
23      those activities which an inactive status certificate holder  
24      may engage in, and for a procedure for the reinstatement as an  
25      active status certificate holder.  
26           "(d) The board shall adopt an annual program of  
27      continuing education for its certified contractors by January



1 1 of each year. All certified contractors shall be required to  
2 complete eight hours of continuing education ~~over a two-year~~  
3 ~~period~~ every year. This minimum continuing education  
4 requirement will begin during the calendar year 2001. All  
5 certified contractors will be required to complete the minimum  
6 continuing education requirements prior to renewal in all  
7 years beginning January 1, 2002.

8 "(c) The failure to complete the minimum continuing  
9 education ~~during the two-year period~~ requirements shall  
10 prevent the renewal of the certified contractor's license  
11 until proof of compliance with the continuing education  
12 requirement is submitted to the board. The board may permit a  
13 certified contractor to submit a deficiency plan to the board  
14 for approval by January 1 of each year for medical hardships  
15 and emergencies that prevent the certified contractor from  
16 complying with the continuing education requirements on time.  
17 This deficiency plan shall be specific in describing the plan  
18 for full compliance with the continuing education requirement  
19 and shall be accompanied by a deficiency plan fee established  
20 by the board.

21 "(f) The board shall adopt rules that prescribe the  
22 policies, procedures, and fees for obtaining board approval of  
23 the providers, courses, and instructors for the continuing  
24 education program.

25 "\$34-31-28.

26 "(a) All prospective certified contractors in this  
27 state desiring to qualify in accordance with the provisions of

1       this chapter shall be required to stand for a written  
2       examination before the board. Any applicant failing to pass  
3       his first examination for a certificate shall be entitled to  
4       take any subsequent examination, either written or, upon  
5       request of the applicant, ~~an oral or~~ practical examination  
6       which is equivalent to the written examination, to be held  
7       within six months from the date of his first or latest  
8       unsuccessful examination.

9               **"(b) The board shall register every person who may**  
10       **apply for an apprentice heating, air conditioning, or**  
11       **refrigeration registration certificate upon forms provided by**  
12       **the board and upon payment of all prescribed fees.**

13               **"(c) The board shall examine the character, fitness,**  
14       **and the qualifications of every person who applies for a**  
15       **certified heating, air conditioning, or refrigeration**  
16       **contractor license upon forms prescribed by the board and upon**  
17       **payment of all prescribed fees.**

18               **"(d) An applicant for examination for a heating, air**  
19       **conditioning, or refrigeration certified contractor license**  
20       **shall be eligible to stand for the examination if the**  
21       **applicant has held an apprentice registration, issued by this**  
22       **board, for two or more calendar years; or has completed 3,000**  
23       **hours of coursework or experience, as defined by the board; or**  
24       **a graduate of an approved heating, air conditioning, or**  
25       **refrigeration curriculum.**

26               **"(e) All legal entities engaged in the refrigeration**  
27       **business for a period of two years prior to the date of**

1 passage of the act adding this subsection, may apply to the  
2 board for a certified refrigeration contractor license without  
3 standing for a written examination. The applicant shall  
4 provide evidence of such experience to the board as  
5 promulgated in the rules of the board. An applicant who does  
6 not apply for such certification by December 31, 2008, must  
7 stand for the written examination.

8 ~~"(b) All persons engaged in the business of~~  
9 ~~installation or service and repair for a period of at least~~  
10 ~~two years prior to September 30, 1988, shall apply with the~~  
11 ~~board for certification not later than August 31, 1992. Such~~  
12 ~~persons shall not be required to stand for an examination, but~~  
13 ~~shall pay the same renewal fees which are charged all other~~  
14 ~~certified contractors.~~

15 ~~"(c) The board is hereby authorized to require a~~  
16 ~~performance bond in the amount of ten thousand dollars~~  
17 ~~(\$10,000) per year for certified contractors who, upon valid~~  
18 ~~complaint and investigation by the board, are found to have~~  
19 ~~performed substandard installation, service and repair work.~~

20 ~~"(d) (f) Counties, municipalities, or other local~~  
21 ~~entities are hereby prohibited from requiring any further~~  
22 ~~local testing or other requirements of certified contractors,~~  
23 ~~subject to the payment of any applicable local privilege,~~  
24 ~~license, or business fees or charges.~~

25 "(g) Persons licensed by the Alabama Liquefied  
26 Petroleum Board are exempt from this chapter pertaining to  
27 heating, air conditioning, and refrigeration when:

1           "(1) Engaged in the installation, repair, or  
2           replacement of a liquefied petroleum gas appliance so long as  
3           the appliance is not connected to a refrigeration system,  
4           except that such persons may also engage in the replacement or  
5           repair of a liquefied petroleum gas central heating unit when  
6           it is combined with an air conditioning unit.  
7           "(2) Engaged in the installation of a venting system  
8           required for a vented-type liquefied petroleum gas appliance.  
9           "(h) This chapter does not apply to:  
10           "(1) An authorized employee of the United States,  
11           the State of Alabama, or any municipality, county, or other  
12           political subdivision, if the employee does not hold himself  
13           or herself out for hire or otherwise engage in contracting  
14           except in accordance with his or her employment.  
15           "(2) Any mobile home or manufactured structure that  
16           is installed, inspected, or regulated by the Alabama  
17           Manufactured Housing Commission, however, the repair,  
18           servicing of a heating and air conditioning system, or the  
19           installation of a new heating and air conditioning system in a  
20           previously inspected manufactured structure is subject to this  
21           chapter.  
22           "(3) Persons performing work on motor vehicles,  
23           residential refrigerators, or ice machines.  
24           "(4) Household appliances.  
25           "(5) Farm Equipment.

1                   "(6) Poultry operations whether engaged in hatching,  
2                   primary processing, or further processing of chicken, turkey,  
3                   or other fowl.  
4                   "\$34-31-29.  
5                   "(a) The board shall provide for examinations which  
6                   test the knowledge, skill, and proficiency of the applicants.  
7                   ~~Subject matter shall be limited to the following subjects:~~  
8                   ~~Safety, basic heating and air conditioning theory,~~  
9                   ~~refrigeration as applied to air conditioning, diagnostic~~  
10                  ~~trouble shooting, repair or servicing of heating and air~~  
11                  ~~conditioning systems, air handling, standard mechanical codes,~~  
12                  ~~standard gas codes, standard electrical codes, equipment~~  
13                  ~~installations, and duct sizing as they relate to heating and~~  
14                  ~~air conditioning.~~  
15                  ~~"(b) All test questions shall be prepared to deal~~  
16                  ~~with the criteria on a trade level only.~~ Examinations shall be  
17                  held at such time and place as may be fixed by the board at  
18                  least once each three-month period. Written notice of the ~~time~~  
19                  ~~and~~ place of examinations shall be mailed to all persons who  
20                  have filed current applications for the examinations of the  
21                  board.  
22                  "(c) The board may charge each applicant and  
23                  retesting applicants for examination a reasonable fee based on  
24                  the actual costs for administering the examinations.  
25                  Applicants must stand for the examination within one year from  
26                  the date the board receives the examination application and

1 fees, otherwise the applicant must resubmit an application and  
2 appropriate fees.

3 "(d) The board may enter into reciprocity agreements  
4 with other states to permit Alabama certified contractors to  
5 engage in work in other states in exchange for that state's  
6 contractors being permitted to perform work in Alabama. This  
7 provision recognizes the status of the certified contractor as  
8 having passed the examination; however, all certification fees  
9 are required to be paid.

10 "§34-31-30.

11 ~~"The board may, in its discretion, when needed to~~  
12 ~~assure financial stability, and professional competence may,~~  
13 ~~in its discretion, require applicants for certification to~~  
14 ~~post bond for the purpose of insuring performance by the~~  
15 ~~certified contractor of any contract agreement into which he~~  
16 ~~may enter. The board may require a performance bond in the~~  
17 ~~amount of fifteen thousand dollars (\$15,000) per year for all~~  
18 ~~active certified contractors.~~ There shall be no discrimination  
19 between contractors similarly situated, and each  
20 classification of regulated contractors for bonding purposes  
21 must be reasonable in light of the purpose of the bond.

22 "§34-31-32.

23 "(a) Any person engaged in business as a certified  
24 contractor or performing the functions of a certified  
25 contractor in violation of this chapter shall be guilty of a  
26 Class A misdemeanor, as defined by the state criminal code.

1           "(b) The board may, at its discretion, impose late  
2 penalties on those certified contractors who fail to renew  
3 certificates by December 31 of each year. The board may also  
4 remove certification from any certified person who fails to  
5 renew his or her certificate by the first day of March and  
6 require the person to apply for a new certificate.  
7 Furthermore, the board may at its discretion, remove, revoke  
8 or suspend the certification from any certified contractor who  
9 provides substandard or dangerous service, repair, or  
10 installation, or who otherwise violates this chapter, and may  
11 require such person to apply for a new certification. The  
12 board may, in its discretion, also require the successful  
13 re-testing of any such person who applies for a new  
14 certification.

15           "(c) The board may reprimand, in writing, any  
16 certified contractor who provides substandard or dangerous  
17 service, repair, or installation, or who otherwise violates  
18 this chapter.

19           "(d) The board may levy and collect administrative  
20 fines for serious violations of this chapter or the rules and  
21 regulations of the board of not more than ~~five hundred dollars~~  
22 ~~(\$500)~~ two thousand dollars (\$2,000) for each violation.

23           "(e) In addition to or in lieu of the criminal  
24 penalties and administrative sanctions provided in this  
25 chapter, the board may issue an order to any person, firm, or  
26 corporation engaged in any activity, conduct, or practice  
27 constituting a violation of this chapter, directing the

1 person, firm, or corporation to forthwith cease and desist  
2 from the activity, conduct, practice, or performance of any  
3 work then being done or about to be commenced. The order shall  
4 be issued in the name of the State of Alabama under the  
5 authority of the board. If the person, firm, or corporation to  
6 whom the board directs a cease and desist order does not cease  
7 or desist the proscribed activity, conduct, practice, or  
8 performance of work immediately, the board shall cause to  
9 issue in any court of competent jurisdiction and proper venue,  
10 a writ of injunction enjoining the person, firm, or  
11 corporation from engaging in any activity, conduct, practice,  
12 or performance of work prohibited by this chapter. Upon  
13 showing by the board that the person, firm, or corporation has  
14 engaged or is engaged in any activity, conduct, practice, or  
15 performance of work prohibited by this chapter, the courts  
16 shall issue a temporary restraining order restraining the  
17 person, firm, or corporation from engaging in such unlawful  
18 activity, conduct, practice, or performance of work pending  
19 the hearing on a preliminary injunction, and in due course a  
20 permanent injunction shall issue after the hearing, commanding  
21 the cessation of the unlawful activity, conduct, practice, or  
22 performance of work complained of, all without the necessity  
23 of the board having to give bond. A temporary restraining  
24 order, preliminary injunction, or permanent injunction issued  
25 pursuant to this subsection shall not be subject to being  
26 released on bond. In the suit for an injunction, the board may  
27 demand of the defendant a fine of up to ~~five hundred dollars~~



1     ~~(\$500)~~ two thousand dollars (\$2,000) plus costs for each  
2     offense. Anyone violating this chapter who fails to cease  
3     work, after a hearing and notification from the board, shall  
4     not be eligible to apply for a certified contractor's license  
5     for a period not to exceed one year from the date of official  
6     notification to cease work. The board may withhold approval,  
7     for up to six months, of any application from anyone who prior  
8     to the application has been found in violation of this  
9     chapter.

10             "\$34-31-35.

11             "The State Board of Heating, ~~and~~ Air Conditioning,  
12     and Refrigeration Contractors shall be subject to the Alabama  
13     Sunset Law, Title 41, Chapter 20, as an enumerated agency as  
14     provided in Section 41-20-3, and shall have a termination date  
15     of October 1, 2004, and every four years thereafter, unless  
16     continued pursuant to the Alabama Sunset Law."

17             Section 2. This act shall become effective on the  
18     first day of the third month following its passage and  
19     approval by the Governor, or its otherwise becoming law.

## **Board Members**



Bob Riley  
GOVERNOR

STATE OF ALABAMA  
**BOARD OF HEATING & AIR  
CONDITIONING CONTRACTORS**

100 N. Union St., Ste 630  
Montgomery, AL 36130  
(334) 242-5550  
Fax: (334) 353-7050  
[www.hvacboard.state.al.us](http://www.hvacboard.state.al.us)



Kathy S. LeCroix  
EXECUTIVE DIRECTOR

March 21, 2007

Ms. Maria L. Catledge  
Examiner of Public Accounts  
P.O. Box 302251  
Montgomery, AL 36130-2251

Dear Ms. Catledge:

Pursuant to your request, the following is a list of members of the Board of Heating and Air Conditioning:

### **Governor Appointments**

Joel Adkins  
Contractor  
2700 6<sup>th</sup> Avenue South  
Birmingham, AL 35233  
Date of Appointment: 06/25/2005  
Expiration of Term: 12/31/2008

James Davis, Jr.  
Mechanical Engineer  
2720 3<sup>rd</sup> Avenue South  
Birmingham, AL 35233  
Date of Appointment: 06/23/2005  
Expiration of Term: 04/04/2008

Robert Baker  
Consumer  
410 14<sup>th</sup> Street NE  
Cullman, AL 35055  
Date of Appointment: 06/25/2003  
Expiration of Term: 04/18/2006

Andrew Hardwick  
Contractor  
1161 Mizell Road  
Montgomery, AL 36116  
Date of Appointment: 06/25/2005  
Expiration of Term: 02/23/2008

### **Lieutenant Governor Appointments**

Ron Head, Sr.  
Contractor  
P.O. Box 1315  
Theodore, AL 36582  
Date of Appointment: 07/02/2001  
Expiration of Term: 07/01/2005

Ebbin J. Register  
County/City Inspector  
121 County Road 1146  
Troy, AL 36081  
Date of Appointment: 07/01/2004  
Expiration of Term: 07/01/2008

Michael Turner  
Trade  
550 North College Avenue  
Eclectic, AL 36024  
Date of Appointment: 12/31/2004  
Expiration of Term: 12/31/2008

#### **Speaker of the House Appointments**

Danny Dyess  
Consumer  
300 Greenbriar Drive  
Dothan, AL 36301  
Date of Appointment: 07/10/2002  
Expiration of Term: 01/01/2005

Mike Beste  
Service Industry  
726 Stanley Avenue  
Andalusia, AL 36420  
Date of Appointment: 05/26/2004  
Expiration of Term: 05/26/2008

Jane Harmon  
Contractor  
P.O. Box 1315  
Theodore, AL 36590  
Date of Appointment: 01/01/2004  
Expiration of Term: 01/01/2008

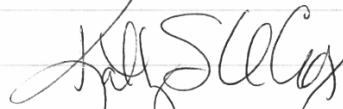
Ron Blackmon  
Contractor  
216 Highway 80 East  
Selma, AL 36701  
Date of Appointment: 01/01/2004  
Expiration of Term: 01/01/2008

#### **President Pro Tempore Appointment**

Anthony Kaschak  
Contractor  
2413 East Willow Street  
Scottsboro, AL 35768  
Date of Appointment: 01/11/2005  
Expiration of Term: 01/11/2009

If you have any questions regarding this matter please contact this office at 242-5550.

Sincerely,



Kathy S. LeCroix  
Executive Director



### **Agency Response to Significant Items**

(The agency did not respond)